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RECORDATION NO. _____ Filed & Recorded

JUL 13 1971 -12 10 PM

INTERSTATE COMMERCE COMMISSION

CONDITIONAL SALE AGREEMENT

Dated as of June 25, 1971

between

SOUTHERN IRON & EQUIPMENT COMPANY
Vendor

and

WAVERLY LEASING CORPORATION
Vendee

RECEIVED
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I.C.C.
FEE OPERATION BR.

STATE OF GEORGIA:

COUNTY OF *DeKalb* ss.

On this *8* day of *July*, 1971, before me personally appeared Tom C. Campbell, to me personally known, who, being by me duly sworn, says that he is President of Southern Iron & Equipment Company, that one of the seals affixed to the foregoing instrument is the corporate seal of the said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Grace E. McNeese
Notary Public

SEAL

My commission expires:
Notary Public, Georgia, State at Large
My Commission Expires Dec. 2, 1972

COMMONWEALTH OF PENNSYLVANIA:

COUNTY OF MONTGOMERY : ss.

On this 2nd day of July, 1971, before me personally appeared D. Charles Merriwether, to me personally known, who, being by me duly sworn, says that he is President of Waverly Leasing Corporation, that one of the seals affixed to the foregoing instrument is the corporate seal of the said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Gertrude F. Sullivan
Notary Public

SEAL

My commission expires: Notary Public, Lower Merion Twp., Montg. Co.
My Commission Expires January 22, 1973

MAY 7

RAILROAD EQUIPMENT RECONSTRUCTION AGREEMENT

THIS IS AN AGREEMENT made as of June 25, 1971, among SOUTHERN IRON & EQUIPMENT COMPANY, a Georgia corporation ("Southern"), WAVERLY LEASING CORPORATION, a Pennsylvania corporation ("Waverly") and ILLINOIS TERMINAL RAILROAD COMPANY, a Delaware corporation (the "Railroad").

RECITALS:

- A. Southern and Railroad have entered into a Railroad Equipment Purchase Agreement, dated as of the date hereof (the "Purchase Agreement") pursuant to which Southern will purchase the 60 railroad boxcars described in Schedule 1 hereto (hereinafter referred to collectively as the "Equipment" and individually as a "unit of Equipment").
- B. By the terms of the Purchase Agreement Southern will take title to units of Equipment as and when such units are delivered to Southern, at Decatur, Georgia, for the reconstruction to be performed hereunder.
- C. Concurrent with the acceptance of the Equipment by Southern under the Purchase Agreement, Southern shall sell the Equipment to Waverly under a conditional sale agreement, dated the date hereof, (the "Conditional Sale Agreement").
- D. Upon performance of this Agreement by Southern, the Railroad and Waverly intend that all units of Equipment reconstructed hereunder shall be leased by Waverly to Railroad, pursuant to the Railroad Equipment Lease Agreement, dated as of the date hereof between Railroad and Waverly (the "Lease").

COVENANTS

1. Reconstruction

Southern agrees to reconstruct each unit of Equipment delivered to it by the Railroad hereunder, in accordance with the specifications set forth in Schedule 2 hereto (the "Specifications"); to number and mark each unit of Equipment as specified by Waverly; and to deliver Equipment, as and when so reconstructed and in the quantities hereinafter set forth.

The Equipment, as so reconstructed, shall conform in all respects to requirements and specifications of the United States Department of Transportation, and all standards recommended by the Association of American Railroads, insofar as such requirements, specifications and recommended standards are applicable as of the date of this Agreement to railroad equipment of the character of the Equipment as so reconstructed.

2. Warranty

Southern warrants to Waverly and Railroad that the Equipment will be reconstructed in accordance with the requirements, specifications and standards set forth as referred to in paragraph 1 hereof, and warrants that the Equipment as so reconstructed will be free from defects in material (except as to specialties incorporated therein specified by Waverly and not manufactured by Southern) and workmanship under normal use and service, the obligation of Southern under this paragraph being limited to making good at its plant any part or parts of any reconstructed unit of Equipment which: (i) are defective in the sense that the same do not comply with the warranty specified herein; (ii) were reconstructed and/or supplied by Southern; and (iii) shall, within one year after the delivery of such reconstructed unit of Equipment to Waverly, be returned to Southern with transportation charges prepaid. This warranty is expressly in lieu of the warranty of merchantability and all other warranties, express or implied and of all other obligations or liabilities on the part of Southern except for its obligations under this Agreement, and Southern neither assumes nor authorizes any person to assume for it any other liability in connection with the reconstruction of the Equipment and delivery of the reconstructed Equipment except as aforesaid. Southern further agrees with Waverly and Railroad that the acceptance by either of them of any reconstructed unit of Equipment hereunder shall not be deemed a waiver by them of any of their rights under this paragraph.

Except in cases of designs specified by the Railroad and not developed by Southern, and articles and materials specified by Railroad and not manufactured by Southern, Southern agrees to indemnify, protect and hold harmless Railroad and Waverly from and against any and all liability, claims, demands, costs, charges and expense, including royalty payments and counsel fees, in any manner imposed upon or accruing against Railroad or Waverly because Southern's reconstruction of the Equipment, or any unit thereof, under this Agreement infringes or is claimed to infringe any patent or similar right.

3. Delivery

The Equipment will be delivered to Southern by Railroad at Southern's plant in Decatur, Georgia. The rate of such delivery shall be as follows: commencing on or about June 1, 1971, in weekly lots of such sizes as Southern shall reasonably require for expeditious handling, consistent with the schedule provided herein for delivery by Southern of reconstructed units of Equipment.

Southern will deliver units of Equipment to Waverly reconstructed pursuant hereto, at the rate of up to approximately fifteen units of Equipment per week, commencing as soon as practical. Delivery by Southern and acceptance by Waverly shall be at Southern's plant in Decatur, Georgia.

4. Force Majeure

The schedule specified in paragraph 3 for delivery of units of Equipment shall be extended to the extent of any delay or delays suffered by Railroad or by Southern, as the case may be, in the performance of the Agreement by reason of the occurrence of acts of God; acts of Government such as embargoes, priorities, and allocations; war or war conditions; riot, civil commotion or sabotage; strikes, differences with workmen and labor shortage; accidents, fire, flood, explosion, damage to plant, equipment or facilities; delays in receiving the Equipment; delays in receiving necessary materials or any other cause beyond the reasonable control of Railroad or Southern, as the case may be.

5. Inspection; Acceptance; Risk of Loss

Waverly agrees to appoint by written notice to Southern and maintain an authorized representative or representatives at the place of delivery of the reconstructed Equipment, and to cause such representative or representatives, as and when reconstructed Equipment is tendered for Delivery by Southern in accordance herewith, to inspect the same and, if such reconstructed Equipment is found to be in good order, to accept delivery thereof and to execute and deliver to Southern and to Waverly a Certificate of Acceptance acknowledging delivery of the reconstructed Equipment in good order and acceptance thereof by the authorized representative of Waverly (hereinafter called "Certificate of Acceptance"). The execution of such a Certificate of Acceptance and receipt by Waverly of Southern's invoice therefor (dated as of the date of the Certificate of Acceptance) as to any unit or units of Equipment, shall be deemed to complete Southern's obligation to deliver such unit or units hereunder, and from the time of their delivery to Southern until execution of such Certificate of Acceptance Southern shall bear all risk and responsibility of loss of or damage to such unit or units.

6. Payment to Southern

The reconstruction price for units of Equipment reconstructed by Southern hereunder shall be paid to Southern by Waverly, at the price per unit of Equipment specified in Schedule 1, on or before the tenth day following the date on which the sixtieth unit of Equipment has been delivered to and accepted by Waverly hereunder and by Railroad under the lease; provided, however, that (without in any way limiting Southern's obligation to deliver units of Equipment as promptly as practicable) Waverly shall not be obligated to make payment to Southern prior to July 15, 1971. Unless Waverly shall have received written notice to the contrary from Southern prior to the date of payment, Waverly shall arrange a bank transfer of funds paid hereunder to The Citizens and Southern National Bank, Atlanta, Georgia, to be available for credit to Southern's account with said Bank before 2:00 o'clock p.m. on the day of payment.

7. Concerning the Obligations of the Parties Inter Se

It is the intention of Railroad and Waverly that Waverly shall be the absolute owner of each and every unit of Equipment specified in Schedule 1, subject only to Southern's rights under the Conditional Sale Agreement and Railroad's rights as lessee under the Lease. Southern hereby agrees that, at the option of Waverly and without notice, Waverly shall have no liability or obligation to Southern with respect to those reconstructed units of Equipment, if any, not delivered to Waverly for any reason on or before October 31, 1971 (regardless of when such units may have been delivered to Southern for reconstruction). Within ten days after exercise of such option, Waverly shall make payment to Southern for any units of Equipment delivered to and accepted by Waverly hereunder for which payment had not been made as of the date of such exercise.

Railroad agrees:

- (i) to pay Southern the reconstruction price of each unit of Equipment reconstructed by Southern hereunder as to which Waverly shall exercise the option described above in this paragraph 7, provided the failure to deliver such units by the date specified in paragraph 7 was due to a cause within the terms of paragraph 4, and

- (ii) to guarantee payment by Waverly to Southern of all amounts due hereunder.

Payment to Southern by Railroad pursuant to this paragraph 7 shall be made at the time specified herein for payment to be made by Waverly to Southern. Nonperformance of the obligations of Southern to Railroad or of Railroad to Southern under this paragraph 7 shall not entitle Railroad or Southern to assert any claim, set off, or counter claim against Waverly, nor excuse Southern or Railroad from any obligation of payment or delivery under this Reconstruction Agreement, the Purchase Agreement, the Conditional Sale Agreement or the Lease.

8. Taxes

Payment of any sales or use taxes payable in connection with the reconstruction of any unit of Equipment shall be the obligation of the party obligated hereunder to pay the reconstruction price of such unit of Equipment to Southern (provided, however, that the foregoing shall not be construed to limit the obligation of Railroad, as lessee under the lease, to pay any such taxes under the terms of the Lease).

9. Notices

Any notice given by a party hereto to either or both of the other parties shall be in writing and shall be deemed to be received when delivered personally or deposited in the United States mail, certified and postage prepaid, as follows:

If to Waverly:

Waverly Leasing Corporation
One Wynnewood Road
Wynnewood, Pennsylvania 19096

Attention: D. C. Merriwether
President

If to Southern:

Southern Iron & Equipment Company
5522 New Peachtree Road
Chamblee, Georgia 30341

Attention: T. C. Campbell
President

If to Railroad:

Illinois Terminal Railroad Company
P. O. Box 7282
St. Louis, Missouri 63177

Attention: E. B. Wilson
President

10. Modification; Waiver

No amendment, modification or alteration of this Agreement shall be effective unless in writing signed by the parties hereto. No waiver of any right, in part or in whole, arising out of any circumstance, or occurrence, shall be deemed to be a waiver of any other or future right arising out of the same or any other circumstance or occurrence.

11. Successors and Assigns

As used herein the terms Southern, the Railroad and Waverly shall be deemed to include the successors and assigns of Southern, the Railroad and Waverly, provided, however, that no assignment by any party or any assignee thereof shall subject any assignee to, or relieve such party from, any of the obligations of such party hereunder. Each party hereto may conclusively assume that there has been no assignment of the other party's rights under this Agreement unless and until it shall have been notified in writing of any such assignment by such assignor.

12. Execution of Counterparts

This Agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument.

SOUTHERN IRON & EQUIPMENT COMPANY

By [Signature]

Title President

SEAL

Attest: [Signature]

Secretary

WAVERLY LEASING CORPORATION

By D Charles Menigether

Title President

SEAL

Attest: [Signature]

Asst. Secretary

ILLINOIS TERMINAL RAILROAD COMPANY

By [Signature]

Title President

SEAL

Attest: [Signature]

Secretary

SCHEDULE 1 TO RECONSTRUCTION AGREEMENT

DESCRIPTION OF UNITS:

Sixty (60) 40' 6" box cars bearing Railroad's identifying numbers as follows:

ITC 5988	ITC 6182
5999	6183
6102	6198
6103	6200
6104	6207
6105	6214
6108	6218
6112	6219
6113	6220
6116	6224
6124	6228
6127	6236
6128	6239
6130	6240
6131	6248
6132	6251
6138	6254
6143	6259
6148	6264
6149	6265
6157	6266
6159	6295
6162	6298
6167	6299
6168	6601
6171	6781
6174	6811
6175	6836
6179	6919
6181	6932

Reconstruction Price per Unit of Equipment: \$10,424.00

Total Reconstruction Price: \$625,440.00

CAR SHOPS:
ATLANTA, GA.
CHAMBLEE, GA.

Southern Iron & Equipment Company

CAR DESIGN
CAR BUILDERS
SPECIAL CONVERSIONS
SANDBLASTING & PAINTING
GANTRY CRANES

5522 NEW PEACHTREE ROAD • CHAMBLEE, GEORGIA • Phone 404/457-3176

SPECIFICATION NUMBER W.O. 1132

FOR

REBUILDING 40'6" 55 TON DOUBLE SHEATHED BOX CARS WITH 8'0"

SLIDING DOORS

FOR

ILLINOIS TERMINAL RAILROAD COMPANY

GENERAL AND SAFETY APPLIANCE ARRANGEMENT: D-2039

DATED: April 23, 1971

APPROVED: *Minis W. Hall*
Chief Engineer

SOUTHERN IRON & EQUIPMENT COMPANY

SPECIFICATIONS FOR REBUILDING

40'6" DOUBLE SHEATHED BOX CARS WITH

8'0" SLIDING DOORS

DISMANTLING AND CLEANING

Remove all decking, end lining, side lining, door post fillers, grain door nailers, deteriorated portions of end, side and corner nailers. Also remove placard boards, route cardboards, running boards, and roof. After removing wood, as required, the exterior and interior of the car will be sandblasted removing only deteriorated and unsound paint and cleaning any rusted portions. The underframe will be sandblasted where any rust is apparent and wherever it is necessary to make welded repairs. Existing door and door hardware will be removed.

UNDERFRAMES

After cleaning, as outlined above, inspect underframes and repair all defective parts by welding or other approved methods.

The existing draft sill and body bolster will be removed by cutting center sill between cross tie and body bolster. A new fabricated steel draft sill and body bolster with center sill extension back of each bolster assembly will be installed by welding. In the fabrication of the bolster and draft sill, the side plates that secure the bolster center filler to the center sill will be arranged so that there will be no vertical weld on the center sill. Top and bottom cover sheets to be 1/2" thick x 30" wide. Welding procedure to conform with Rule 57, Par. 3b (1).

The side sill to be replaced in the doorway.

Floor stringers will be cut off at the existing body bolster. Six (6) floor stringers, 3" I's or Z's will be installed, three each side of the center sill reusing existing material and supplying new material, as required. A 5" x 5/16" flat bar doorway reinforcement will be applied as side plate reinforcement through the door opening.

Existing side sill reinforcement and connecting pieces will be removed and replaced by a new 12" channel @20.7# from outside edge of bolster to outside edge of bolster.

Two (2) new crossties, 6" WF @8.5#, or formed equivalent, will be installed, both at center line of car.

UNDERFRAMES (Cont'd)

Crossbearers and crossties will be attached to the side sill reinforcement channel by a gusset weld to both members.

All couplers will be replaced with remanufactured couplers. Serviceable yokes will be reused; those replaced will be replaced with remanufactured yokes. Remanufactured AAR 901 draft gears will be applied. Coupler keys to be replaced as required. Key retainer to be replaced 100%. Coupler heights and side bearing clearances will be measured and adjusted, if required, to meet standard AAR dimensions.

SUPERSTRUCTURE

A complete new roof will be installed.

Four (4) new International-Stanley Corporation nailable steel door posts, and extensions will be installed by welding.

New 8'0" sliding doors will be installed and will have safety door hangers.

Four (4) door posts and side sill reinforcement plates 2'-6" x 3/8" thick x 2'-6" will be applied by welding.

New end sills will be applied, by welding, on all cars.

End sheets will be straightened, if deteriorated or cracked, they will be repaired by welding a formed patch 3/16" thick x 9" high x 2'6" long over striker.

The bottom portion of the side sheets deteriorated will be removed and a 10 gauge patch applied by welding.

The existing side and end ladders at the AR corner of the car will be cut in two leaving the bottom four rungs remaining on the car. On BL corner side and end ladder to remain as is.

Handholds on roof at the BL corner of the car will be reapplied in place of the one removed with the running board. Grab iron to be extended across each end of the car.

New placard boards, routing boards and defect card holders will be installed in accordance with AAR specifications.

A new 2 1/4" hardwood (Laminated Type) flooring will be applied with six 2-piece fasteners and clips per board.

New end and side nailers to be applied as required.

SUPERSTRUCTURE (Cont'd)

New 1 1/8" x 10' long B-C plywood end lining to be attached with screw nails and minimum 2 bolts per piece. 25/32" thick horizontal T&G side lining and grain strips at floor level AAR Spec Par. 59 will be applied.

BRAKES

Air brake cylinder release valve, AAR approved type, will be applied.

A slack adjuster, AAR approved, automatic double acting type will be installed.

All brakes and brake components will be closely inspected and repaired, or replaced, as required.

Brake will be repaired in accordance with AAR rebuilt specifications. The AB valve operating portions will have filter protected charging chokes, self-oiler type main pistons and brake cylinder having non-pressure heads with integral return spring guides. The AB valve operating portions to be modified.

Cars will have three-position slow release retaining valves. Retaining valves will be located in accordance with the latest AAR rules.

Angle cocks and combined dirt collector and cut-out cocks will be the seal ring key type. Angle cocks will be located in accordance with AAR Manual of Standard and Recommended Practices for Interchange.

The 1 1/4" brake pipe and 1" branch pipe fittings will be of welded fabrication except brake pipe fittings at the end of the car, which will be threaded. All flanged type air brake pipe fittings size 1" or less, will be the type not requiring threading of the pipe, with self-locking cap screws for securing them to the reservoir, pipe brackets and brake cylinder.

All self-locking nuts, self-locking cap screws and high tensile steel bolts, will be used as provided in Rule 4, Para. 3, 5 and 7.

A new pressed brake badge plate will be applied.

Air hose will be inspected in accordance with AAR Rule #5 and will be renewed when over 5 years.

All brakes will be given COT&S attention in accordance with AAR Rule No. 2.

All cars will have their brake systems single car tested and adjusted.

Hand brakes will be inspected, tested and lubricated to insure their suitability for safe and effective operation, if found defective, they will be repaired or replaced with suitable approved secondhand brakes.

Hand brakes will remain in present location.

MISCELLANEOUS

Safety appliances will be repaired or replaced, as required.

TRUCKS

Trucks will be dismantled, inspected and repaired in accordance with AAR rebuilt specifications and then re-assembled.

Truck side frames and bolsters will be normalized, truck side frame boxes will be modified to accommodate roller bearings.

Trucks on 52 of the 6100 and 6200 series cars will be replaced with trucks less than 25 years old having built in snubbing feature.

New D4 truck springs will be applied.

Balance of cars in order will have trucks suitable for re-use.

Truckwear plates, side frame columns, bolster guides, springs, spring plates, levers, brake beams, brake beam safety supports, brake beam hangers, brake lever pins, and ride-control parts shall be inspected for wear, defects and repaired or replaced with new, reusable or approved reclaimed material, if required.

New AAR high friction composition brake shoes with proper braking forces and new brake shoe keys will be applied.

Clearance on all modification or conversion work to be 2-3/4" above rail. Existing clearances will not be altered.

WHEELS & AXLES

All new A-33 Class "U" steel wheels to be mounted on roller bearings axles that have been converted from AAR plain bearing axles with a minimum wheel seat diameter of 6 7/8". New 5 1/2 x 10 roller bearings will be applied.

PAINTING

During fabrication, the faying surfaces of steel, except where it interferes with welding, will receive a coat of primer paint.

The exterior sides and ends will be cleaned by brush sandblasting in preparation to receive one coat each of zinc chromate primer and yellow car enamel to a total combined dry mil thickness of 4 mils. The Underframe of the car will receive one coat of red car enamel.

PAINTING (Cont'd)

The car will be stenciled to meet the AAR and Railroad requirements, using green enamel stencil paint.

The owners name (Illinois Terminal) will be stenciled in script lettering on each side of car to owner specification.

Automatic Car Identification plaques to be applied directly to each side of the car in accordance with AAR Recommendations.

W.O. 1132

Reference:

Illinois Terminal Railroad Company

Specification dated April 23, 1971

ANNEX B

DESCRIPTION OF UNITS:

Sixty (60) 40' 6" box cars bearing Railroad's identifying numbers as follows:

ITC 5988	ITC 6182
5999	6183
6102	6198
6103	6200
6104	6207
6105	6214
6108	6218
6112	6219
6113	6220
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6159	6295
6162	6298
6167	6299
6168	6601
6171	6781
6174	6811
6175	6836
6179	6919
6181	6932

RAILROAD EQUIPMENT LEASE AGREEMENT

Dated as of June 25, 1971

between

WAVERLY LEASING CORPORATION

Lessor

..

and

ILLINOIS TERMINAL RAILROAD COMPANY

Lessee

RAILROAD EQUIPMENT LEASE AGREEMENT

THIS IS A LEASE AGREEMENT, dated as of June 25, 1971, between WAVERLY LEASING CORPORATION, a Pennsylvania corporation, (the Lessor), and ILLINOIS TERMINAL RAILROAD COMPANY, a Delaware corporation (the Lessee).

SECTION 1. Definitions. The following terms shall have the following meanings for all purposes of this Lease Agreement:

(a) Appraisal shall mean a procedure whereby two recognized independent railroad equipment appraisers, one chosen by Lessee and one by Lessor, shall mutually agree on the amount in question, or (if they should fail to agree) shall mutually appoint a third independent appraiser who shall determine the amount. If either Lessor or Lessee shall fail to appoint an appraiser within 30 days after notice from the other party of appointment of its appraiser, or if such two appraisers shall be unable to agree on the amount of such approval and shall fail to appoint such third appraiser, then either party may apply to any judge of the Federal District Court for the Eastern District of Pennsylvania to make such appointment.

(b) Base Lease Term shall mean the period from and including the Closing Date to and including that date thirteen (13) years following the Closing Date.

(c) Basic Rent shall mean the aggregate rent payable throughout the Base Lease Term pursuant to Section 6 hereof.

(d) Casualty or Casualty Occurrence, when used in respect of units of Equipment, shall mean that such unit of Equipment shall be or become any of the following: lost; stolen; destroyed; in the opinion of the Lessee, irreparably damaged; requisitioned (except for any requisition expressly limited to a period ending prior to the termination of this Lease) or taken over by any governmental authority under the power of eminent domain or otherwise during the term of this Lease.

(e) Casualty Value of each unit of Equipment shall be an amount determined as of the date the Casualty Value is payable as provided in this Lease (and not the date of the Casualty Occurrence) equal to that percentage of the Lessor's Cost of such unit of Equipment as set forth in the Schedule of Casualty Values attached hereto as Exhibit B.

(f) Closing Date shall mean that date selected by the Lessor not more than ten (10) days following the delivery to and acceptance by the Lessee of the sixtieth Unit under this Lease.

(g) Conditional Sale Agreement means the agreement between Southern, as vendor, and Lessor, as vendee.

(h) Daily Interim Rent for each Unit means an amount equal to \$4.478 per day per Unit for each day from and including the date such Unit is accepted by Lessee under this Lease to and including the day immediately preceeding the Closing Date.

(i) Equipment shall mean the 60 railroad box cars described in Exhibit A hereto, or such lesser number thereof as shall constitute the entire quantity of box cars purchased by Lessor under the Conditional Sale Agreement, reconditioned by Southern under the Reconstruction Agreement, and delivered to Lessee by Lessor hereunder.

(j) Event of Default shall mean any event specified in Section 16 hereof.

(k) Fair Market Rental Value shall be determined as of the date on which the amount thereof is payable hereunder, and shall mean the aggregate amount, determined by Appraisal, which can be earned through rental of units of Equipment during the period commencing with the date of such determination and ending at the expiration of the term of this Lease, discounted to current value at the date of determination by 6% per annum.

(l) Fair Market Sales Value shall be determined as of the date on which the amount thereof shall be payable, and shall mean the aggregate amount, determined by Appraisal, which can be realized by sale of a unit of Equipment.

(m) Lessor, in the context of Section 14(b) hereof, shall mean Waverly Leasing Corporation and Brandywine Leasing Company, a Delaware limited partnership, One Wynnewood Road, Wynnewood, Pennsylvania 19096.

(n) Lessor's Cost, when applied to one or more units of Equipment, shall mean \$13,400.00, being the aggregate amount payable by Lessor in respect of such unit or units of Equipment to Southern under the Reconstruction Agreement, \$10,424.00 per unit of Equipment, and to Lessee under the Purchase Agreement, \$2,976.00 per unit of Equipment.

(o) Purchase Agreement shall mean the agreement designated as the Railroad Equipment Purchase Agreement, dated as of the date hereof, between Southern and Lessee.

(p) Reconstruction Agreement shall mean the agreement designated as the Railroad Equipment Reconstruction Agreement, dated as of the date hereof, between Lessor, Lessee and Southern.

(q) Rent shall mean Basic Rent, plus Daily Interim Rent, plus Supplemental Rent.

(r) Southern shall mean Southern Iron & Equipment Company, a Georgia corporation.

(s) Supplemental Rent shall mean all amounts, liabilities and obligations which Lessee agrees to pay to Lessor or others hereunder, except Basic Rent and Daily Interim Rent.

(t) Unit (or units) of Equipment shall mean one (or more) of the box-cars constituting the Equipment.

Section 2. Lease. Lessor hereby agrees to lease the Equipment to Lessee, and Lessee agrees to lease the Equipment from Lessor and pay to Lessor the Rent, all on the terms and conditions herein contained.

Section 3. Acceptance and Delivery. Delivery of Equipment to Lessee

by Lessor hereunder shall be made simultaneously with delivery of Equipment to Lessor by Southern under the Reconstruction Agreement. Acceptance of each unit of Equipment on behalf of Lessor under the Reconstruction Agreement and on behalf of Lessee hereunder shall be made by their authorized representative, who shall be an employee or officer of Lessee selected by Lessee, and who shall, upon finding such unit of Equipment to have been delivered by Southern in good order, execute and deliver to Lessor, Lessee and Southern a Certificate of Acceptance applicable thereto in the form of Exhibit C hereto; whereupon such unit of Equipment shall be deemed to have been delivered to and accepted by Lessee and shall be subject thereafter to all terms and conditions of this Lease.

Section 4. Term of Lease. This Lease shall commence upon acceptance of the first unit of Equipment to Lessee, and shall terminate thirteen (13) years after the Closing Date.

Section 5. Representations and Warranties of Lessee. Lessee represents and warrants that:

(a) Lessee is a corporation duly organized and existing in good standing under the laws of the State of Delaware and has the corporate power and authority to carry on its business as presently conducted and to perform its obligations under this Lease, and is duly qualified to do business wherever necessary to carry on its present business and operations and to own or hold under lease the properties so owned or held;

(b) This Lease, the Purchase Agreement, and the Reconstruction Agreement have been duly authorized by all necessary corporate action on the part of Lessee, and neither the execution and delivery thereof nor the consummation of the transactions contemplated thereby nor compliance by Lessee with any of the terms and provisions thereof will contravene any law binding on Lessee or result in any breach of or constitute any default under, or result in the creation of any lien, charge or encumbrance upon any property of Lessee under, any indenture, mortgage, chattel mortgage, deed of trust, conditional sales contract, bank loan or credit agreement, corporate charter, by-law or other agreement or instrument to which Lessee is a party or by which Lessee or its properties may be bound or affected;

(c) Neither the execution and delivery by Lessee of this Lease nor any of the transactions by Lessee contemplated hereby require the consent or approval of, or the giving of notice to any federal, state or foreign governmental authority, except such, if any, as shall have been duly given prior to the initial delivery of Equipment hereunder;

(d) This Lease, the Purchase Agreement and the Reconstruction Agreement have been duly entered into and delivered and constitute legal, valid and binding obligations of Lessee enforceable against Lessee in accordance with the respective terms thereof;

(e) The Equipment is not and will not become subject to any lien or security interest in favor of any creditor of Lessee pursuant to the terms of any indenture or other instrument affecting Lessee or its property;

(f) Lessee has filed or caused to be filed all federal and state tax returns which are required to be filed and, to the extent no extension on filing has been granted, has paid or caused to be paid all taxes shown to be due or payable on said returns or on any assessment received by Lessee, to the extent that such taxes have become due and payable, or such taxes are being contested by appropriate proceedings.

(g) The financial statements of Lessee heretofore delivered to Lessor are true and correct and fairly depict the financial condition of Lessee as of the date thereof; since such date, there has been no material adverse change in the financial condition of Lessee.

Section 6. Payment of Daily Interim Rent and Basic Rent. Lessee agrees to pay Daily Interim Rent and Basic Rent hereunder as follows:

(a) Daily Interim Rent. For each unit of equipment delivered to Lessee hereunder, Lessee shall pay to Lessor, in a lump sum on the Closing Date, an amount equal to \$4.478 for each day from and including the date of acceptance by Lessee of the Unit for lease hereunder to and including the day immediately preceeding the Closing Date.

(b) Basic Rent. For each unit of Equipment delivered to Lessee

hereunder, Lessee shall pay to Lessor twenty-six consecutive semiannual installments of Basic Rent, each in the amount of \$817.14, payable in arrears, beginning with the first such installment six months following the Closing Date.

(c) Manner and Place of Payment. Lessee agrees to pay all Rent to Lessor in immediately available funds to the account of Lessor at:

The Western Saving Fund Society of Philadelphia
Broad and Chestnut Streets
Philadelphia, Pennsylvania 19107

Section 7. Return of Equipment. Except as otherwise provided herein, upon the expiration of the term of this Lease with respect to any unit of Equipment the Lessee will, at its own cost and expense, at the written request of the Lessor, deliver possession of such unit of Equipment to the Lessor, in the condition required for it to be maintained by Lessee hereunder, upon such storage tracks of the Lessee as the Lessee may select, and permit the Lessor to store such unit of Equipment on such tracks for a period not exceeding 60 days and transport the same at any time within such 60 day period to any reasonable place on the railroad lines operated by the Lessee or to any connecting carrier for shipment, all as directed by the Lessor upon not less than 30 days' written notice to Lessee. All movement and storage of each such unit until possession thereof is delivered to Lessor is to be at the risk and expense of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such unit of Equipment, to inspect the same. Upon termination of this Lease for any reason other than default, if Lessor shall fail to direct Lessee as to such shipment within the time allowed herein, Lessor shall pay Lessee a monthly storage charge commencing at the expiration of such 60-day storage period at the rate of \$1.50 per day for each car stored.

Section 8. Net Lease. This lease is a net lease and the Lessee shall not be entitled to any abatement of rent or reduction thereof, including, but not limited to, abatements or reductions due to any present or future claims of the Lessee against the Lessor under this Lease or otherwise or against Southern under the Reconstruction Agreement, nor except as otherwise ex-

pressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or failure of title of the Lessor to the Equipment or any defect in or damage to or loss or destruction of all or any of the Equipment from whatsoever cause, the taking or requisitioning of the Equipment by condemnation or otherwise, the lawful prohibition of the Lessee's use of the Equipment, the interference with such use by any private person or corporation, the invalidity or unenforceability or lack of due authorization or other infirmity of this Lease, or lack of right, power or authority of the Lessor to enter into this Lease, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events unless the obligation to pay the same shall be terminated pursuant to Section 15 hereof, or until, pursuant to Section 7 hereof, the Equipment is placed and ready for delivery to Lessor on the Lessee's lines, or is stored for the Lessor on the Lessee's lines, or leaves the Lessee's lines for off-line delivery to the Lessor.

Lessee's obligation to pay all Rent payable hereunder shall be absolute and unconditional and shall not be affected by any circumstance, including, without limitation, (i) any setoff, counterclaim, recoupment, defense or other right which Lessee may have against Southern or Lessor, or any assignee of any of them or anyone else for any reason whatsoever, (ii) any defect in the title, condition, design, operation or fitness for use of, or any damage to or loss or destruction of, the Equipment, or any interruption or cessation in the use or possession thereof by Lessee for any reason whatsoever. Lessee hereby waives, to the extent permitted by applicable law, any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender this Lease except in accordance with the express terms hereof. Each Rent payment made by Lessee shall be final and Lessee will not seek to recover all or any part of such payment from Lessor for any reason whatsoever.

Section 9. Warranty Disclaimer. AS BETWEEN LESSOR AND LESSEE, LESSOR LEASES THE EQUIPMENT, AS-IS WITHOUT WARRANTY OR REPRESENTATION EITHER EXPRESS OR IMPLIED, AS TO (A) THE FITNESS OR MERCHANTABILITY OF ANY UNIT OF EQUIPMENT, (B) THE LESSOR'S TITLE THERETO, (C) THE LESSEE'S RIGHT TO THE

QUIET ENJOYMENT THEREOF, OR (D) ANY OTHER MATTER WHATSOEVER, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN THE LESSOR AND THE LESSEE ARE TO BE BORNE BY THE LESSEE. The Equipment has been built to Lessee's specifications by Southern, a manufacturer selected by Lessee, and Lessee's execution and delivery to Lessor of Certificate(s) of Acceptance shall constitute Lessee's absolute confirmation to Lessor that it has inspected and accepted as conforming to such specifications the Equipment covered by such Certificate(s). The Lessor hereby appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce, from time to time, in the name and for the account of the Lessor and the Lessee, as their interests may appear, but in all cases at the sole cost and expense of the Lessee, whatever claims and rights the Lessor may have as owner of the Equipment against any manufacturers or contractors in respect thereof, including claims and rights against Southern under the Reconstruction Agreement.

Section 10. Ownership.

(a) Retention of Title. The Lessor, as between the Lessor and the Lessee, shall and hereby does retain full legal title to the Equipment notwithstanding the delivery thereof to and the possession and use thereof by the Lessee.

(b) Duty to Number and Mark Equipment. The Lessee will cause each unit of Equipment to be kept numbered with its road number as set forth in Exhibit A and will keep and maintain, plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed in contrasting color upon each side of each unit of Equipment in letters not less than one-half inch in height as follows:

"The Western Saving Fund Society of Philadelphia, Secured Party
Waverly Leasing Corporation, Owner-Lessor"

with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of the Lessor to such unit of Equipment, its rights under this Lease and the rights of any assignee hereof, and Southern or its assignee under the Conditional Sale Agreement. The Lessee will not place any such unit of equipment in operation or exercise any control or dominion over the same until the required legend shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced or destroyed. The Lessee will not change the road number of any unit of Equipment except with the written consent of the Lessor and in accordance with a statement of new road numbers to be substituted therefor, which consent and statement previously shall have been filed with the Lessor by the Lessee and filed, recorded or deposited in all public offices where this Lease shall have been filed, recorded or deposited.

(c) Prohibition Against Certain Designations. Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee may cause the Equipment to be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates on railroad equipment used by it of the same or a similar type.

Section 11. Possession, Use and Maintenance; Liens.

(a) Possession. So long as no Event of Default shall have occurred and be continuing, Lessee shall be entitled as against Lessor to the possession and use of the Equipment in accordance with and during the term of this Lease. The Lessee shall not, without the prior written consent of Lessor, part with possession or control of, or suffer or allow to pass out of its possession or control, any of the Equipment; provided, however, that Lessee shall, in the absence of any Event of Default, be entitled to the possession of the Equipment and to the use thereof upon the railroad lines owned or operated by it (either alone or jointly) or by any corporation a majority of whose voting stock (i. e., having ordinary voting power for the election of a majority of its Board of Directors) is owned directly or indirectly by the Lessee, or upon railroad lines over which the Lessee or such corporation has trackage or other operating rights or over which equipment of the Lessee is regularly operated pursuant to contract and also to permit the use of the Equipment upon connecting and other railroads in the usual interchange of traffic, but only upon and subject to all the terms and conditions of this Lease. No assignment, sublease or interchange agreement entered into by the Lessee hereunder shall relieve the Lessee of any liability or obligations hereunder which shall be and remain those of a principal and not a surety. During the term of this Lease, Lessee will not assign or permit the assignment of any unit of Equipment to service outside the United States of America and during the term of this Lease use of any unit of Equipment outside the United States of America will be limited to incidental and temporary use in the Dominion of Canada and Mexico.

(b) Use and Maintenance. The Lessee shall use the Equipment only in the manner for which it was designed and intended and so as to subject it only to ordinary wear and tear. The Lessee shall, at its own cost and expense, maintain and keep the Equipment in good order, condition and repair, ordinary wear and tear excepted, suitable for use in interchange. The Lessee shall not modify any unit of Equipment without the written authority and approval of the Lessor which shall not be unreasonably withheld. Any parts installed or replacements made by the Lessee upon any unit of Equipment shall be considered accessions to such unit of Equipment and title thereto shall be immediately vested in the Lessor, without cost or expense to the Lessor.

(c) Governmental Laws, Rules and Regulations. During the term of this Lease the Lessee agrees to comply, in all respects, with all laws of the jurisdiction in which operations involving the Equipment may extend and with the interchange rules of the Association of American Railroads, if applicable, and with all lawful rules of the Interstate Commerce Commission, the United States Department of Transportation and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the operation and use of the Equipment; and in the event that such laws or rules require the alteration of the Equipment, the Lessee will conform therewith, at its expense, and will maintain the same in proper condition for operation under such laws and rules; provided, however, that the Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor, adversely affect the property or rights of the Lessor hereunder. In case any equipment or appliance is required to be installed on any such unit of Equipment in order to comply with such laws, regulations, requirements and rules, the Lessee agrees to make such changes, additions and replacements at its expense.

(d) Liens. The Lessee shall pay or satisfy and discharge any and all claims against, through, or under the Lessee and its successors which, if unpaid, might constitute or become a lien or a charge upon the Equipment, and any liens or charges which may be levied against or imposed upon any unit of Equipment as a result of the failure of the Lessee to perform or observe any of its covenants or agreements under this Lease, but the Lessee shall not be required to pay or discharge any such claims so long as it shall, in good faith and by appropriate legal proceedings contest the validity thereof in any reasonable manner which will not affect or endanger the title and interest of the Lessor to the Equipment. The Lessee's obligations under this Section 11(d) shall survive termination of the Lease.

Section 12. Taxes. Lessee agrees to pay, and to indemnify and hold Lessor, and its successors, assigns, agents and servants, harmless from all license and registration fees and all taxes, including without limitation, income, franchise, sales, use, personal property, stamp, interest equalization or other taxes, levies, imposts, duties, charges or withholdings of any nature (together with any penalties, fines or interest thereon) imposed against any such party or Equipment by any federal, state or local government or taxing authority in the United States or by any foreign government or any subdivision thereof upon or with respect to the Equipment, or upon the purchase, ownership, delivery, leasing, possession, use, operation, return or other disposition thereof, or upon the rentals, receipts or earnings arising therefrom, or upon the income or other proceeds received with respect to the Equipment until possession of the Equipment has been delivered to Lessor in accordance with Section 7 hereof, or upon or with respect to this Lease, or the Conditional Sale Agreement (excluding, however, (except as otherwise provided in Section 14(b) hereof) taxes by any such taxing authority on, or measured by

the net income of any such party and excluding any taxes on or measured by any fees or compensation received by Lessor for services rendered in connection with the transactions contemplated hereby and further excluding any taxes based on gross income of any such party (other than gross receipts taxes) which may hereafter be imposed in any such jurisdiction as a substitute for and not in addition to taxes based on net income) unless, and to the extent only, that any such tax, levy, impose, duty, charge or withholding is being contested by Lessee in good faith and by appropriate proceedings so long as such proceedings do not involve any danger of the sale, forfeiture, or loss of the Equipment or interest therein. In case any report or return is required to be made with respect to any obligation of Lessee under this Section or arising out of this Section, Lessee will either make such report or return in such manner as will show the ownership of the Equipment in Lessor and send a copy of such report or return to Lessor or will notify Lessor of such requirement and make such report or return in such manner as shall be satisfactory to Lessor. All amounts payable by Lessee pursuant to this Section 12 shall be payable, to the extent not theretofore paid, on written demand by the party entitled to indemnification. All the indemnities contained in this Section 12 shall continue in full force and effect notwithstanding the expiration or other termination of this Lease and are expressly made for the benefit of, and shall be enforceable by, Lessor and each such other party, provided that the foregoing indemnities shall not apply to any of the aforesaid taxes, fees and charges which arise during and are incurred with respect to the period following the end of the term of this Lease. All tax returns and tax reports relating to taxes which are the responsibility of the Lessee shall be prepared and filed by Lessee at its cost and expense.

Section 13. Filing. Prior to delivery and acceptance of the first unit of Equipment hereunder, the Lessor will at its sole expense cause this Lease to be duly filed in accordance with Section 20c of the Interstate Commerce Act.

Section 14. Indemnities.

(a) General Indemnity. Lessee hereby agrees, whether or not any of the transactions contemplated hereby shall be consummated, to assume

liability for, and does hereby agree to indemnify, protect, save and keep harmless Lessor, and its successors, assigns, agents and servants, from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements, including legal fees and expenses, of whatsoever kind and nature, imposed on, incurred by or asserted against Lessor or any of its successors, assigns, agents and servants, in any way relating to or arising out of the Purchase Agreement, Reconstruction Agreement, the manufacture, purchase, acceptance or rejection under the Reconstruction Agreement, ownership, delivery, lease, possession, use, operation, condition, sale, return or other disposition of the equipment (including, without limitation, latent and other defects, whether or not discoverable by any of such parties, and any claim for patent, trademark or copyright infringement), except only that Lessee shall not be required to indemnify Lessor or its respective successors, assigns, agents, and servants, for loss or liability in respect of any unit of Equipment arising from acts or events which occur after possession of such unit of Equipment has been delivered to Lessor in accordance with Section 7 hereof, or loss or liability resulting from the willful misconduct or gross negligence of the party otherwise to be indemnified hereunder. If Lessor shall have knowledge of any claim or liability hereby indemnified against, it shall give prompt written notice thereof to the Lessee. Lessee's obligations hereunder shall be that of primary obligor irrespective of whether the individual or corporation indemnified shall also be indemnified with respect to the same matter under any other agreement by any or all such parties, or any other person. Upon payment in full of any indemnities contained herein by Lessee, it shall be subrogated to any rights of the individual or corporation indemnified in respect of the matter against which indemnity has been given. The indemnities and benefits in favor of the Lessor hereunder shall inure to the benefit of the Lessor in its capacity as such, as vendee under the Conditional Sale Agreement and as a party to the Reconstruction Agreement.

(b) Indemnities for Failure to Obtain Sixty Month Amortization. 1. If the Lessor shall (except as herein below provided) fail to obtain or have the right to claim or shall be disallowed, sixty month amortization with respect to Lessor's Cost of any unit of Equipment, in computing its taxable income for the period this Lease is in effect (computed as to that portion of Lessor's Cost which represents payments made under the Reconstruction Agreement, in accordance with the provisions of Section 184 of the Internal

Revenue Code of 1954, as amended as of the date hereof) except for any inability to obtain or to have the right to claim such amortization because of the occurrence of any of the following events:

(i) Casualty shall occur with respect to such unit of Equipment, whereby Lessee is required by the terms hereof to pay, and shall pay in full, the Casualty Value; provided, however, that the indemnities set forth in this Section 14(b) shall continue in effect as provided in Section 14(c) hereof, notwithstanding such payment of Casualty Value, with respect to the period beginning on the delivery date of such unit of Equipment and ending on the date of payment of said Casualty Value;

(ii) at any time while such unit of Equipment is leased hereunder, and while no Event of Default has occurred and is continuing unremedied, Lessor shall voluntarily transfer legal title to such unit of Equipment to anyone or shall dispose of any interest in the Equipment or shall reduce its interest in the profits from the Equipment, and such transfer by Lessor or such disposal or reduction by Lessor shall be the direct cause of the Lessor's inability to obtain or to have the right to claim or of the disallowance of such amortization;

(iii) Lessor shall enter into a document or amend any document to which it is a party and entering into such document or such amendment shall be the direct cause of Lessor's inability to obtain or to have the right to claim or of the disallowance of such amortization;

(iv) the Lessor shall fail to claim such amortization in its income tax returns for the appropriate year or shall fail to follow the proper procedure in claiming such amortization and such failure to claim or to follow such procedure, as the case may be, shall preclude the Lessor from claiming such amortization;

(v) the Lessor shall fail to have sufficient income to benefit from such amortization;

(vi) the Lessor shall fail to take timely action in contesting a claim made by the Internal Revenue Service with respect to the disallowance of such amortization and the failure to take such action in a timely manner shall preclude the right of such party to contest such claim, provided that the Lessee shall upon demand of the Lessor pay to the Lessor the expenses of any such contest as a condition of prosecuting the same. Lessee shall pay Lessor one-half of Lessor's estimated expense of such contest at the time Lessor commences such contest and the balance shall be paid as the expenses remaining unpaid are incurred and billed.

(vii) any other fault of the Lessor which directly causes the loss of the amortization, provided, however, that the execution and delivery of this Lease and the other documents herein referred to and the carrying out of the transactions contemplated herein and therein in accordance with the terms of this Lease and such other documents shall not be deemed to have caused the loss of such amortization under this paragraph (vii);

then Lessee shall pay Lessor as Supplemental Rent an amount equal in the aggregate to (i) \$2,656 compounded semiannually at $8\frac{1}{2}\%$ simple interest per annum from and including the Closing Date to and including the date of final determination of the loss of amortization, plus (ii) \$2,656 times the number of Basic Rent installments then remaining unpaid under this Lease as of the date of such determination.

2. Indemnities pursuant to this paragraph (b) shall be payable on written demand made at any time after the date of final determination of the loss of such amortization.

(c) Continuing Indemnity. All the indemnities contained in paragraphs (a) and (b) of this Section 14 shall continue in full force and effect in accordance with their terms notwithstanding the expiration or other termination of this Lease and are expressly made for the benefit of, and shall be enforceable by Lessor and its successors and assigns, as the case may be.

Section 15. Casualty Loss. In the event of a Casualty as to any unit of Equipment:

(a) Report. Such fact shall promptly be reported by Lessee to Lessor.

(b) Amount Payable to Lessor. Except as provided in Section 15(c), on the date specified in Section 6 for payment of the installment of Basic Rent next following the date of such Casualty Occurrence, Lessee shall pay to Lessor (in addition to the Basic Rent payment due on such date) the Casualty Value of such unit of Equipment, determined as of the date of such payment.

(c) Casualty Occurring Prior to the Closing Date. In the event the Lessee shall have notified the Lessor prior to the Closing Date that a unit or units of Equipment have suffered a Casualty Occurrence prior to the Closing Date, the Casualty Value for such unit or units shall be an amount equal to one hundred and one percent (101%) of Lessor's Cost thereof plus the Daily Interim Rent therefor computed for the period from the date of acceptance of such unit by Lessee to the date of payment of such Casualty Value, which payment shall be made not more than 15 days after the date of notice to the Lessor of such Casualty Occurrence. If the Lessee shall have notified the Lessor after the Closing Date that a unit or units of Equipment have suffered a Casualty Occurrence prior to the Closing Date, the date of such Casualty Occurrence for such unit or units shall be deemed to be one day after the Closing Date.

(d) Rent Termination. Upon (and not until) payment of the Casualty Value in respect of any unit or units of Equipment, and any Basic Rent installment due on the Casualty Value payment date, the obligation to pay rent for such unit or units of Equipment shall terminate, but the Lessee shall continue to pay Rent for all other units of Equipment.

(e) Disposition of Equipment. The Lessee shall, as agent for the Lessor, dispose of such unit or units of Equipment as soon as it is able to do so for the best price obtainable. Any such disposition shall be on an "as is", "where is" basis without representation or warranty, express or implied. As to each separate unit of Equipment so disposed of the Lessee may, after paying Lessor the amounts specified in subparagraphs (b) or (c) of this Section 15, thereafter retain all amounts of such price plus any damages received by the Lessee by reason of such Casualty Occurrence, up to the Casualty Value attributable thereto, and shall remit the excess, if any, to the Lessor. In disposing of such unit or units of Equipment, the Lessee shall take such action as the Lessor shall reasonably request to terminate any contingent liability which the Lessor might have arising after

disposition from or connection with such unit or units of Equipment.

(f) Risk of Loss. The Lessee shall bear the risk of and, except as hereinabove in this Section 15 provided, shall not be released from its obligations hereunder in the event of any Casualty Occurrence to any unit of Equipment.

(g) Eminent Domain. In the event that during the term of this Lease the use of any unit of Equipment is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for a period which does not exceed the remaining term of this Lease, the Lessee's duty hereunder to pay Rent in respect of any such unit of Equipment shall continue for the duration of said requisitioning or taking. Provided payment of Rent as aforesaid shall be made by Lessee, it shall be entitled to receive and retain for its own account all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession up to an amount equal to the Basic Rent paid or payable hereunder in respect of such unit of Equipment for such period, and the balance, if any, shall be payable and retained by the Lessor as its sole property.

Section 16. Events of Default. The following events shall constitute Events of Default (whether any such event shall be voluntary or involuntary or come about or be effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) Lessee shall fail to make any payment of Rent when due and such failure shall continue unremedied for a period of 10 days; or

(b) Lessee shall fail to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder or under the Purchase Agreement or the Reconstruction Agreement and, provided that no material adverse consequence to Lessor shall occur, Lessee shall have a period of 30 days after written notice thereof from Lessee to cure such defect; or

(c) any representation or warranty made by Lessee herein or in any document or certificate furnished Lessor in connection herewith or pursuant hereto shall prove to be incorrect at any time in any material respect, provided that the representation or warranty is of a nature susceptible to being

remedied, and such condition shall continue unremedied for a period of 30 days after written notice thereof from Lessor; or

(d) Lessee shall consent to the appointment of a receiver, trustee or liquidator of itself or of a substantial part of its property, or Lessee shall admit in writing its inability to pay its debts generally as they come due, or shall make a general assignment for the benefit of creditors, or Lessee shall file a voluntary petition in bankruptcy or a voluntary petition or an answer seeking reorganization in a proceeding under any bankruptcy laws (as now or hereafter in effect) or an answer admitting the material allegations of a petition filed against Lessee in any such proceeding, or Lessee shall by voluntary petition, answer or consent seek relief under the provisions of any other similar law providing for the reorganization or winding-up of corporations, or providing for an agreement, composition, extension or adjustment with its creditors; or

(e) an order, judgment or decree shall be entered by any court of competent jurisdiction appointing, without the consent of Lessee, a receiver, trustee or liquidator of Lessee or of any substantial part of its property, or any substantial part of the property of Lessee shall be sequestered, and any such order, judgment or decree of appointment or sequestration shall remain in force undismitted, unstayed or unvacated for a period of 90 days after the date of entry thereof; or

(f) a petition against Lessee in a proceeding under the federal bankruptcy laws or other insolvency laws (as now or hereafter in effect) shall be filed and shall not be withdrawn or dismissed within 90 days thereafter, or if, under the provisions of any law providing for reorganization or winding-up of corporations which may apply to Lessee, any court of competent jurisdiction shall assume jurisdiction, custody or control of Lessee or of any substantial part of its property, and such jurisdiction, custody or control shall remain in force unrelinquished, unstayed or unterminated for a period of 90 days.

Section 17. Remedies. Upon the occurrence of any Event of Default and at any time thereafter so long as the same shall be continuing, Lessor

may, at its option, declare this Lease to be in default and at any time thereafter, so long as Lessee shall not have remedied all outstanding Events of Default, Lessor may do one or more of the following with respect to the Equipment as Lessor in its sole discretion shall elect, to the extent permitted by, and subject to compliance with any mandatory requirements of, applicable law then in effect;

(a) demand that Lessee, and Lessee shall upon the written demand of Lessor and at Lessee's expense, return promptly the Equipment to Lessor at such place and in the manner and condition required by, and otherwise in accordance with all of the provisions of Section 7 hereof as if the Equipment were being returned at the end of the term of this Lease; or Lessor, at its option, may enter upon the premises where all or any part of the Equipment is located and take immediate possession of and remove the same by summary proceedings or otherwise, all without liability to Lessor for or by reason of such entry or taking of possession, whether for the restoration of damage to property caused by such taking or otherwise. At the option of Lessor, Lessor may keep the Equipment for a period of 120 days after such default on any of the lines of Lessee until the Lessor shall have leased, sold or otherwise disposed of the same.

(b) sell the Equipment at public or private sale, as Lessor may determine, or otherwise dispose of, hold, use, operate, lease to others or keep idle the Equipment as Lessor in its sole discretion may determine, all free and clear of any rights of Lessee and without any duty to account to Lessee with respect to such action or inaction or for any proceeds with respect thereto.

(c) except as stated in this paragraph (c), whether or not Lessor shall have exercised, or shall thereafter at any time exercise, any of its rights under paragraph (a) or paragraph (b) above with respect to the Equipment, Lessor, by written notice to Lessee specifying a payment date which shall be a Basic Rent payment date specified in Section 6 not earlier than 10 days from the date of such notice, may demand that Lessee pay to Lessor and Lessee shall pay to Lessor, on the payment date specified in such notice, as liquidated damages for loss of a bargain and not as a penalty (in lieu of the Basic Rent for the equipment due after the payment date specified for payment in such notice), any unpaid Basic Rent for the Equipment due for periods up to and including the payment date specified in such notice plus the Casualty Value for the Equipment as of said date (together with interest on such amount at the rate of 10% per annum from the payment date specified in such notice to the date of actual payment); and upon such payment in full by

Lessee, Lessor, or its assignee, shall convey to Lessee all of its right, title and interest in and to the Equipment. Provided, however, that if by the payment date specified in such notice Lessor, pursuant to paragraph (b) above, shall have sold the Equipment, Lessee shall pay to Lessor the amounts computed under paragraph (d) below, and not the amounts specified in or payable under the notice given under this paragraph (c);

(d) in the event Lessor, pursuant to paragraph (b) above, shall have sold the Equipment, Lessor, in lieu of exercising its rights under paragraph (c) above with respect to the Equipment, may, if it shall so elect, demand that Lessee pay Lessor and Lessee shall pay to Lessor, as liquidated damages for a loss of a bargain and not as a penalty (in lieu of the Basic Rent for the Equipment due beginning on or after the rental payment date next following the date on which such sale occurs), any unpaid Basic Rent for the Equipment due for periods up to and including the Basic Rent payment date next following the date on which such sale occurs plus the amount of any deficiency between the net proceeds of such sale and the Casualty Value of the Equipment, computed as of the Basic Rent payment date next following the date on which such sale occurs, together with interest at the rate of 10% per annum on the amount of such deficiency from the Basic Rent payment date as of which such Casualty Value is computed until the date of actual payment; and/or

(e) Lessor may exercise any other right or remedy which may be available to it under applicable law or proceed by appropriate court action to enforce the terms hereof or to rescind this Lease as to the Equipment.

In addition, Lessee shall be liable, except as otherwise provided above, for any and all unpaid Rent due hereunder before or during the exercise of any of the foregoing remedies and for all legal fees and other costs and expenses incurred by reason of Lessor's remedies with respect thereof, including all costs and expenses incurred in connection with the return of the Equipment in accordance with the terms of Section 7 hereof or in placing such Equipment

in the condition required by said Section. No express or implied waiver by Lessor of any Event of Default shall in any way be, or be construed to be, a waiver of any future or subsequent Event of Default. To the extent permitted by applicable law, Lessee hereby waives any rights now or hereafter conferred by statute or otherwise which may require Lessor to sell, lease or otherwise use the Equipment in mitigation of Lessor's damages as set forth in this Section or which may otherwise limit or modify any of Lessor's rights or remedies under this Section.

Section 18. Annual Reports.

(a) Duty of Lessee to Furnish. On or before May 1 in each year, commencing with the year 1972, the Lessee will furnish to the Lessor or its assigns an accurate statement, as of the end of Lessee's preceding fiscal year (a) showing the amount, description and numbers of the units of Equipment then leased hereunder, the amount, description and numbers of all units of Equipment that may have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Lease, in the case of the first such statement), and such other information regarding the condition or repair of the Equipment as Lessor may reasonably request, and (b) stating that, in the case of all Equipment repainted during the period covered by such statement, the markings required by Section 10(b) hereof shall have been preserved or replaced.

(b) Lessor's Inspection Rights. The Lessor or its assigns shall have the right, at its sole cost and expense, by its authorized representative, to inspect the Equipment and the Lessee's records with respect thereto, at such times as shall be reasonably necessary to confirm to the Lessor or its assigns the existence and proper maintenance thereof during the continuance of this Lease.

Section 19. Option to Purchase. Provided that the Lessee is not in default, Lessee shall have the following option to purchase:

(a) Option. The Lessee shall have the right to purchase all or less than all of the Equipment then leased hereunder at the expiration of the term of this Lease at a price equal to the then Fair Market Sales Value for any

Unit being purchased hereunder. The Lessee shall give the Lessor written notice 180 days prior to the end of the term of its election to exercise the purchase option provided for in this Section specifying the Units to be purchased by Lessee's identifying number. Payment of the option price shall be made at the place of payment specified in Section 6(c) hereof in funds there current against delivery of a bill of sale transferring and assigning to the Lessee all right, title and interest of the Lessor in and to the Units of Equipment being purchased and containing a warranty against liens or claims of persons claiming by, through or under the Lessor except liens and claims which the Lessee assumed or is obligated to discharge under the terms of the Lease. The Lessor shall not be required to make any representation or warranty as to the condition of the Equipment or any other matters.

(b) Notice. Unless the Lessee has given the Lessor 180 days notice as required in connection with exercise of the foregoing option, all the Equipment then leased hereunder and not described by Lessee's identifying number in such notice shall be returned to the Lessor in accordance with Section 7 hereof.

(c) Election to Purchase. Notwithstanding any election of the Lessee to purchase, the provisions of Section 15 hereof shall continue in full force and effect until the date of purchase and the passage of ownership of the Equipment purchased by the Lessee upon the date of purchase, unless the purchase price has been determined pursuant to this Section and is lower than the Casualty Value required pursuant to Section 15 hereof, in which event such purchase price shall govern.

Section 20. Merger; Assignment by Lessee.

(a) Lessee may not sell or convey its property and assets as an entirety or substantially as an entirety to, or consolidate or merge with or into, any other corporation, unless (i) the successor corporation shall be a corporation incorporated under the laws of the United States of America or of any state or states thereof, (ii) upon any such sale, conveyance, consolidation or merger, the successor corporation shall expressly assume the due and punctual payment of all Rent and Casualty Value in accordance with the terms of this Lease, as well as the due and punctual performance and

observance of all other terms, covenants and conditions of this Lease to be kept and performed by Lessee, (iii) after giving effect to any such sale, conveyance, consolidation or merger no Event of Default and no event which with notice or lapse of time or both would constitute an Event of Default shall have occurred and be continuing and (iv) Lessor shall be promptly notified of such sale, conveyance, merger or consolidation. Any such purchasing or successor corporation shall be substituted for Lessee as Lessee hereunder.

(b) Except to the extent otherwise expressly provided in this Lease, Lessee will not, without the prior written consent of Lessor, assign any of its rights or delegate any of its duties hereunder. The rights and obligations of Lessor and Lessee hereunder shall inure to the benefit of, and be binding upon, the permitted successors and assigns of Lessor and Lessee, respectively.

Section 21. Assignments by Lessor. This Lease shall be assignable in whole or in part by Lessor without the content of Lessee, but Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. Upon notice to the Lessee of any such assignment the rent and other sums thereafter payable by the Lessee which are the subject matter of the assignment shall be paid to the assignee. Without limiting the foregoing, the Lessee further acknowledges and agrees that (i) the rights of any such assignee in and to the sums payable by the Lessee under any provisions of this Lease shall not be subject to any abatement whatsoever, and shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever whether by reason of or defect in Lessor's title, or any interruption from whatsoever cause (other than from a wrongful act of the assignee) in the use, operation or possession of the Equipment or any part thereof, or any damage to or loss or destruction of the Equipment or any part thereof, or by reason of any other indebtedness or liability, howsoever and whenever arising, of the Lessor to the Lessee or to any other person, firm or corporation or to any governmental authority or for any cause whatsoever, it being the intent hereof that, except in the event of a wrongful act on the part of the assignee, the Lessee shall be unconditionally and absolutely obligated to pay the assignee all of the rents and other sums which are the subject matter of the assignment and which shall become payable after Lessee receives notice of such assignment, and (ii) the assignee shall have the sole right to exercise

all rights, privileges and remedies (either in its own name or in the name of the Lessor for the use and benefit of the assignee) which by the terms of this Lease are permitted or provided to be exercised by the Lessor. Lessee and Lessor acknowledge that the Conditional Sale Agreement creates a security interest in the Equipment, this Lease, and all Basic Rent and Supplemental Rent payable hereunder.

Section 22. Lessor's Right to Perform for Lessee. If Lessee fails to make any payment of Supplemental Rent required to be made by it hereunder or fails to perform or comply with any of its agreements contained herein, Lessor may itself make such payment or perform or comply with such agreement, and the amount of such payment and the amount of the reasonable expenses of Lessor incurred in connection with such payment or the performance of or compliance with such agreement, as the case may be, together with interest thereon at the rate of 10% per annum shall be deemed Supplemental Rent, payable by Lessee upon demand.

Section 23. Notices. All notices required or permitted to be delivered to any party shall be in writing, and shall be deemed to be given when delivered, or when deposited in the United States mails, certified and postage prepaid as follows:

(a) If to Lessor:

Waverly Leasing Corporation
One Wynnewood Road
Wynnewood, Pennsylvania 19096

Attention: D. C. Merriwether, President

(b) If to Lessee:

Illinois Terminal Railroad Company
Post Office Box 7282
St. Louis, Missouri 63177

Attention: E. B. Wilson, President

Section 24. Counterparts. This Lease may be executed in several counterparts, each of which so executed shall be deemed to be an original and in each case such counterparts shall constitute but one and the same instrument.

Section 25. Opinion of Lessee's Counsel. Concurrently with the delivery and acceptance of the first unit of Equipment hereunder, the Lessee will deliver to the Lessor eight counterparts of the written opinion of counsel for the Lessee addressed to the Lessor and to any assignee of Lessor of which the Lessee has notice, in scope and substance satisfactory to the Lessor, to the effect that:

(a) The Lessee is a corporation legally incorporated and validly existing, in good standing, under the laws of the State of Delaware.

(b) The Lessee has the corporate or other power and authority to own its property and carry on its business as now being conducted and is duly qualified to do business as a foreign corporation in all states in which such qualification is necessary to carry out the terms of the Lease;

(c) This Lease, the Reconstruction Agreement and the Purchase Agreement have been duly authorized, executed and delivered by the Lessee and constitute legal, valid and binding agreements of the Lease which are enforceable in accordance with their respective terms, subject, however, to bankruptcy, insolvency and similar laws affecting generally the rights of creditors;

(d) No filing, recording or depositing other than the filing by Lessor pursuant to Section 20(c) of the Interstate Commerce Act, is necessary to protect the Lessor's title to the Equipment;

(e) No approval, consent or withholding of objection is required from any public regulatory body with respect to the entering into or performance of the Purchase Agreement, this Lease, or the Reconstruction Agreement;

(f) The execution and delivery by Lessee of the Purchase Agreement, the Reconstruction Agreement, and this Lease do not violate any provision of law, any order of any court or governmental agency, the certificate of incorporation or by-laws of the Lessee, or any indenture, agreement, or other instrument to which Lessee is a party or by which it, or any of its property is bound, and of which such counsel has knowledge, and will not be in conflict with, result in breach of, or constitute (with due notice and/or

lapse of time) a default under any such indenture, agreement, or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Lessee, except as contemplated and permitted hereby, and

(g) As to any other matters which Lessor shall reasonably request.

Section 26. Other Documents. Lessee will deliver to Lessor such other documents, financial statements, opinions of counsel or certificates relating to Lessee's financial condition or the execution and $\frac{1}{2}$ performance of this Lease as Lessor shall from time to time reasonably request.

Section 27. Miscellaneous. Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof. To the extent permitted by applicable law Lessee hereby waives any provision of law which renders any provision hereof prohibited or unenforceable in any respect. No term or provision of this Lease may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against which the enforcement of the change, waiver, discharge or termination is sought. This Lease shall constitute an agreement of lease, and nothing herein shall be construed as conveying to Lessee any right, title or interest in the Equipment except as a Lessee only. The captions in this Lease are for convenience or reference only and shall not define or limit any of the terms or provisions hereof. This Lease shall in all respects be governed by, and construed in accordance with, the laws of Pennsylvania, including all matters of construction, validity and performance.

IN WITNESS WHEREOF, Lessor and Lessee have caused this agreement to be duly executed as of the day and year first above written.

WAVERLY LEASING CORPORATION

Lessor

By D. Charles McNamee

Title President

Attest: Sally Dwyer
Asst. Secretary

ILLINOIS TERMINAL RAILROAD COMPANY

Lessee

By E. J. Wilson

Title PRESIDENT

Attest: [Signature]
Secretary

STATE OF PENNSYLVANIA :

ss.

COUNTY OF MONTGOMERY:

On the 30th day of June, 1971, before me personally came D. Charles Merriwether, to me known, who, being by me duly sworn, did depose and say that he resides at Exton, Pennsylvania; that he is President of Waverly Leasing Corporation, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

Notary Public Alvin C. Burger

SEAL

My commission expires: 5/25/74

STATE OF MISSOURI:

ss.

CITY OF ST. LOUIS :

On the 6th day of July, 1971, before me personally came E. B. Wilson, to me known, who, being duly sworn, did depose and say that he resides at Frontenac, Mo.; that he is *President of Illinois Terminal Railroad Company, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

Notary Public John W. Hogan

SEAL

My commission expires: January 3, 1974

Exhibits

Form of

A

Schedule of Equipment

B

Casualty Schedule

C

Certificate of Acceptance

EXHIBIT A TO LEASE

DESCRIPTION OF UNITS:

Sixty (60) 40' 6" box cars bearing Railroad's identifying numbers as follows:

ITC 5988	ITC 6182
5999	6183
6102	6198
6103	6200
6104	6207
6105	6214
6108	6218
6112	6219
6113	6220
6116	6224
6124	6228
6127	6236
6128	6239
6130	6240
6131	6248
6132	6251
6138	6254
6143	6259
6148	6264
6149	6265
6157	6266
6159	6295
6162	6298
6167	6299
6168	6601
6171	6781
6174	6811
6175	6836
6179	6919
6181	6932

EXHIBIT B TO LEASE

Schedule of Casualty Value

Casualty Value Payment Due on
Basic Rent Payment Date

Casualty Value (expressed as a
Percentage of Lessor's Cost

1	103.67
2	101.62
3	99.48
4	97.26
5	94.94
6	92.52
7	90.00
8	87.37
9	84.63
10	81.77
11	78.79
12	75.69
13	72.45
14	69.08
15	65.56
16	61.89
17	58.07
18	54.08
19	49.93
20	45.59
21	41.08
22	36.37
23	31.46
24	26.35
25	21.01
26	15.45

EXHIBIT C

CERTIFICATE OF ACCEPTANCE

UNDER:

1. Railroad Equipment Lease Agreement, dated as of June 25, 1971, (the Lease) between Waverly Leasing Corporation (Lessor) and Illinois Terminal Railroad Company (Lessee); and
2. Railroad Equipment Reconstruction Agreement, dated as of June 25, 1971, (the Reconstruction Agreement) among Lessor, Lessee and Southern Iron & Equipment Company (Southern); and
3. Conditional Sale Agreement, dated as of June 25, 1971, (the Conditional Sale Agreement) between Southern and Lessor.

The undersigned, being the duly authorized representative of Lessor under the Lease and the Reconstruction Agreement and the Conditional Sale Agreement and of the Lessee under the Lease and the Reconstruction Agreement, and acting on their behalf as contemplated by the respective foregoing agreements, hereby certifies that the following units of equipment:

Description:

TOTAL NO.
OF UNITS

LESSEE'S IDENTIFYING
NUMBERS

DATE

have been duly delivered in good order by Southern and duly inspected and accepted by the undersigned on the respective dates shown above on behalf of the Lessor and in turn have been duly delivered by the Lessor to the Lessee and have been duly inspected and accepted by the undersigned on said dates on behalf of the Lessor and the Lessee as conforming in all respects to the requirements and provisions of the Lease, the Reconstruction Agreement and the Conditional Sale Agreement.

The undersigned further certifies that at the time of its delivery to the Lessor and the Lessee each unit of Equipment covered by this Certificate was properly marked on each side thereof with the legend provided in _____ of the Conditional Sale Agreement and Section 10 of the Lease.

Dated:

, 19

Duly authorized representative of Lessor
and Lessee.